

Honorable J. D. Cato
Mayor, Town of Pageland
1276 North Pearl Street
Pageland, South Carolina 29728

MAR 24 1977

Dear Mayor Cato:

This is in reference to the change to a majority vote requirement pursuant to Section 47-94 of the Home Rule Act adopted by the Town of Pageland, Chesterfield County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on January 21, 1977.

At the outset, we note that during the course of our consideration of this submission we detected an earlier change in December 1975, to a plurality vote requirement by the Town of Pageland. Accordingly, we have considered this as a submission of both changes and treat them both in this response.

We have given careful consideration to the information furnished by you as well as Bureau of the Census data and information and comments from other interested parties. The Attorney General does not interpose any objection to the change to a plurality vote requirement in 1975. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change.

With regard to the change to a majority vote requirement, however, our analysis reveals that blacks constitute over 23 percent of the population of the Town of Pageland but that no black has ever been elected to the town's governing body, despite black candidacies. This, and other information brought to our attention, suggests that racial bloc voting may exist. As in the past, under the adopted form of government the town's council members will be elected at-large with a residential ward requirement.

cc: Public File
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Under these circumstances, recent court decisions, to which we feel obligated to give great weight, indicate that the further debilitating effect of a majority vote requirement would have the potential of abridging minority voting rights. See White v. Regester, 412 U.S. 755 (1973), and Beer v. United States, 425 U.S. 130 (1976).

Under Section 5 of the Voting Rights Act, the submitting authority bears the burden of proving that a submitted change in voting practice and procedure does not have a racially discriminatory purpose or effect. (See Georgia v. United States, 411 U.S. 526 (1973) and 28 C.F.R. 51.19.) While we have not received any information indicating a discriminatory purpose, we are unable to conclude that the imposition of the majority vote requirement in the context of an at-large election system with a residential ward requirement, will not have a racially discriminatory effect in Pageland. Accordingly, on behalf of the Attorney General I must interpose an objection to the implementation of the majority vote requirement for the election of mayor and council members.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the District Court for the District of Columbia that this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Sections 51.23 to 51.25 of the Attorney General's Section 5 guidelines (28 C.F.R. 51.23-51.25) permit reconsideration of the objection should you have new information bearing on the matter. However, until such time as the objection may be withdrawn or a judgment from the District of Columbia Court is obtained, the legal effect of the objection by the Attorney General is to make the change to majority vote legally unenforceable.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division